IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.5222 OF 2004

Built Graphics Paper Limited).. Petitioner

Versus

Lt.Col.(Ret.) Anil K.Kolhatkar & ors.).. Respondents

Mr.K.S.Bapat for the Petitioner.

Mr.N.A.Kulkarni for Respondent No.1.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 30TH AUGUST 2004

P.C.:

. This Petition challenges the order dated 16th February 2002 of the Labour Court, Pune passed in Complaint (ULP) No.146 of 1998 as also the order dated 6th February 2004 of the Industrial Court, Pune passed in Revision Application (ULP) No.48 of 2002 whereby both the Courts have held that the first Respondent is a workman. The challenge to both the orders is based on the contention that despite the judgment in *Waman Ganpat Raut* vs. *Cadbury-Fry (India) Pvt. Ltd and another*, **1980 (41) FLR 156**, it was for the first Respondent to step into the witness box and contend that he was in fact a workman. The submission is that unless the workman steps into the witness box and establishes that he is a workman as defined under Section 2(s) of the Industrial Disputes

Act, 1947 and Section 3(5) of the Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971, the onus does not shift on to the employer.

2. The Labour Court has decided the issue as to whether the first Respondent is a workman only as a preliminary contention. All other issues are yet to be decided. As held in *D.P.Maheshwari* vs. *Delhi Administration*, **AIR 1984 SC 153**, the Labour Court should decide all issues together rather than deciding matters piece-meal. In view of this, the Petition is rejected with liberty to the Petitioner to raise the contention in the present Petition in the event the Complaint is decided against the Petitioner.

3. Hence, Petition rejected.

4. Office to provide authenticated copy of this order.